

THE UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY

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C. DONALD WHEATLEY and  
FREDERICK G. LEVIN,

Plaintiffs,

v.

THE GUARDIAN LIFE INSURANCE  
COMPANY OF AMERICA, et. al.,

Defendants.

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HON. JEROME B. SIMANDLE

Civil Action  
No. 06-5228 (JBS)

**ORDER**

This matter having come before the Court upon Defendants' motion for summary judgment [Docket Item No. 4] and upon Plaintiffs' cross-motion for continuance under Rule 56(f), Fed. R. Civ. P. [Docket Item No. 7]; and for the reasons expressed in the Opinion of today's date; and for good cause shown;

**IT IS** this 28th day of **September, 2007** hereby

**ORDERED** that Defendants' motion for summary judgment [Docket Item No. 4] shall be, and hereby is, **GRANTED** with respect to Counts Two through Seven, and **DISMISSED** without prejudice pending discovery as to Count One; and

**IT IS FURTHER ORDERED** that Plaintiffs' motion in opposition to Defendants' summary judgment pursuant to Rule 56(f) be **DENIED** as to Counts Two through Seven, and **GRANTED** as to Count One, upon which discovery may proceed.

**s/ Jerome B. Simandle**

JEROME B. SIMANDLE  
U.S. District Judge